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GERMAIN CUTHBERT, on behalf of himself and all
others similarly situated,

Plaintiff(s)

-against-

Docket No:
14-CV-5466 (BMC)(PW)

NEW SOLDIER’S RESTAURANT, INC. and
WITCLIFFE WILLIAMS, an individual,
CANDY WILLIAMS, an individual and
CRAIG WILLIAMS, an individual,

Defendant(s).

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I, ROBERT P. VALLETTI, do hereby declare and affirm as follows:

1. I am an attorney at law, admitted to the bar of the State of New York. I represent the Plaintiffs/Opt-ins in this action (“Plaintiffs”)
2. I submit this declaration in support of Plaintiffs’ Motion seeking (1) attorneys’ fees; and (2) costs and expenses pursuant to §216(b) of the FLSA and §663(1) of the New York State Labor Law.
3. Plaintiffs commenced the instant Collective and Class Action on or about September 17, 2014 pursuant to the Fair Labor Standards Act, the New York Labor Law and the corresponding New York Code of Rules and Regulations.
4. On or about November 10, 2014, Plaintiffs effectuated service on each Defendant herein. Additionally, Defendant NEW SOLDIER’S RESTAURANT, INC. was served by way of the Secretary of State on November 12, 2014. See Exhibit A for all corresponding Affidavits of Service and the Invoice for said service. None of Defendants have answered in this action.
5. On or about January 2, 2015 Plaintiffs effectuated service of the Certificate of Default on each Defendant herein. Additionally, Defendant NEW SOLDIER’S RESTAURANT, INC. was

Affidavits of Service and the Invoice for said service.

6. On or about February 21, 2015 Plaintiffs effectuated service of the Default Judgment and Entry of Default Judgment on each Defendant herein. Additionally, Defendant NEW SOLDIER'S RESTAURANT, INC. was served by way of the Secretary of State on February 23, 2015. See Exhibit C for all corresponding Affidavits of Service and the Invoice for said service.

7. Attached hereto as Exhibit D are two redacted example retainers of the firm.

8. Attached hereto as Exhibit E is the retainer for Plaintiff GERMAIN CUTHBERT.¹

9. Attached hereto as Exhibit F is the retainer for Opt-In Plaintiff SHAWN ELLIS.²

10. Attached hereto as Exhibit G is the email confirmation from the Electronic Case Filing System for initiation of this action.

11. This Affirmation incorporates the accompanying Memorandum of Law in Support of Plaintiff's Motion for Attorneys' Fees and Costs.

ATTORNEY / STAFF HOURLY RATE

12. While various attorneys in the office worked on the case, including the investigative, pleading and motion practice aspects, I, Robert P. Valletti, was the primary attorney on the case. The chart below indicates each person who has worked on this case, the title of each person along with the hourly billing rates we are seeking.

NAME	TITLE	HOURLY RATE
Robert J. Valli, Jr.	Partner	\$450.00
James A. Vagnini	Partner	\$425.00

¹ I have redacted the retainer agreement to delete our client's contact information. In the event the Court wishes to see an un-redacted copies of these retainer agreements, we can provide same, but request that it be an in camera production.

² I have redacted the retainer agreement to delete our client's contact information. In the event the Court wishes to see an un-redacted copies of these retainer agreements, we can provide same, but request that it be an in camera production.

Case 1:14-cv-05466-BMC Document 25 Filed 02/24/15 Page 10 of 12 PageID #: 123	Senior Associate	\$350.00
Robert P. Valletti	Associate	\$300.00
Ana Martinez	Para-Professional	\$150.00
Hope Zapata	Para-Professional	\$150.00

THE HOURLY RATES

Valli Kane & Vagnini LLP

13. The hourly rates indicated are in accordance with community standards and are representative of the hourly rates typically charged by Valli Kane & Vagnini LLP (“the Firm”) for our work on our cases in the 2014-2015 time frame. Each attorney/employee who performed work on the case is listed below along with a discussion of why their hourly rates are reasonable.

14. Our firm primarily handles plaintiffs’ Class Action Wage and Hour claims and employment discrimination claims. Accordingly, the vast majority of our cases are contingency based. However, the firm sometimes performs work on an hourly basis. Presently our hourly rates are \$500 to \$600 per hour for named partners, \$400 to \$500 for senior associates, \$300 to \$400 for associates and \$150 to \$250 for interns, paralegals and other paraprofessionals. These are our typical hourly rates. However, there are times when we alter these rates to some degree in the interest of securing a retainer agreement.

15. Copies of actual current retainer agreements are attached hereto as Exhibit “D”. The retainer agreements verify that our hourly rates are \$500-\$600 for partners, \$400-\$500 for senior associates, \$300-\$400 for junior associates and \$150-\$200 for paraprofessionals.

16. These retainer agreements provide undisputable documentary evidence that these are our typical hourly rates and that these are the rates we can reasonably command in the local marketplace.

actions.

- A. *Ahmed, et al. v. TJ Maxx* – 10-cv-3609 (EDNY) - representation of thousands of Assistant Store managers in a FLSA misclassification case (Rule 72 pending).
- B. *Chamseddine, et al. v. IHOP* – 12-cv-1183 (NDTX) – representation and settlement of a group of plaintiffs in a religious discrimination action.
- C. *Diaz, et al. v. S & H Bondi's Department Store* – 10-cv-7676 (SDNY) – representation of a group of employees with FLSA and NYLL claims.
- D. *Estrella, et al. v. Coqui Check Cashing, et al* – 08-cv-5177 (SDNY) – representation and settlement of workers with FLSA and NYLL claims;
- E. *Gambino v. Harvard Protection Services, LLC*, 10-cv-0983 (SDNY) - Representation and settlement of an FLSA Rule 216(b) class of employees against an employer regarding a failure to pay overtime;
- F. *Henderson, et al. v. Transportation Group* – 09-cv-7328 (SDNY) – representation of a group of employees with FLSA and NYLL claims;
- G. *Jackson, et al v. 180 Connect, Inc et al* – 07-cv-5000 (EDNY) – representation and settlement of a group of employees with Title VII race claims;
- H. *Johnson et al v. County of Nassau*, (2:10-cv-02792 – EDNY) - Representation and settlement of an FLSA Rule 216(b) class of employees regarding overtime violations;
- I. *Taylor v. Turner Industries Group, LLC* (2:11-CV-0057 - EDTX – Marshall), *Turner v. Turner Industries Group, LLC* (3:11-CV-00471 – MDLA) – Representation, Trial and settlement of hundreds of African-American Employees in a series of mass actions against Turner Industries pending in Louisiana and Texas.
- J. *White, et al. v. City of Dallas* – 09-cv-2395 (NDTX) – representation of a group of workers with Title VII claims;
- K. *Laurie Introp, et al. v. Medicis Pharmaceutical Corp.* – 13-cv-01345 – representation of a group of workers with Title VII claims;

representation of a group of workers with misclassification claims.

18. The below represent a few examples of the firm's work on EEOC and/or confidential ADR processes:

- a. Representation of a class of African-American sales men and women asserting claims of unequal pay practices and racial steering in a confidential mediation process against an international corporation;
- b. Representation of a class of hundreds of African-American and Hispanic workers before the EEOC;
- c. Representation of plaintiffs in *qui tam* cases currently pending in the Southern and Eastern Districts of New York.
- d. Representation of hundreds of employees in a variety of confidential mediations against various Fortune Five Hundred Corporations.

Robert J. Valli, Jr.

19. For the hours that Partner Robert J. Valli, Jr. ("Mr. Valli") worked on this matter, this office has billed at a rate of \$450.00 per hour. Such rate is reasonable for a number of reasons. First, the Firm normally bills \$500.00 per hour for Mr. Valli's services, as reflected in the retainer agreements attached hereto as Exhibit "D". Moreover, his qualifications justify such a rate. Mr. Valli is a partner at the Firm with over twenty-four (24) years of litigation experience. Mr. Valli graduated from St. John's University in 1987 and St. John's University School of Law in 1990.

20. Following Mr. Valli's graduation from law school in 1990, he served as an Assistant District Attorney ("ADA") with the Office of the Queens County District Attorney. During his tenure as an ADA, Mr. Valli served in the Intake Bureau, Criminal Court Bureau, Appeals Bureau, Homicide Investigations Bureau and the Supreme Court Trial Bureau.

21. In the approximately seven (7) years working as an ADA, Mr. Valli conducted hundreds of evidentiary hearings, tried numerous misdemeanor cases and tried over twenty (20) felony cases to verdict.

appeals at the Appellate Division, Second Department, and was co-lead counsel representing the Queens District Attorney's Office following investigation by a multi-jurisdictional FBI task force that led to homicide convictions in New York (Queens County) and New Jersey of a serial killer.

23. In 1997, Mr. Valli joined Leeds & Morelli, Esqs., the predecessor firm to Leeds Brown P.C. and began practicing in the field of civil rights/employment discrimination law. With that firm, Mr. Valli was responsible for a large portion of the litigation and successfully tried various civil rights claims in both Federal and State Court.

24. Presently, Mr. Valli is involved in the majority of the litigation at VKV. In the past five years the firm's practice with respect to FLSA actions has expanded to include numerous nationwide actions and the firm is currently co-counsel with some of the most experienced plaintiff-side FLSA firms in the nation.

25. Below are examples of the cases where the firm represented the prevailing party in cases in which Mr. Valli served as lead or co-lead trial counsel.

- A. Collins v. Suffolk County Police Department, et al., 01-CV-4194 (ADS)
- B. Gunning v. Village of East Rockaway, et al., 96-CV-2076 (ADS)
- C. Jattan v. Queens College, (12367/95) (Qns Supreme Court)
- D. Raghavendra v. The Robert Plan Corporation, et al., 96 CV 667 (VPP)
- E. Sommer, et al. v. Aronow, et al., 95-CV-9230 (BSJ)
- F. Weeks v. Suffolk County Police Department, et al., 03-CV-4294 (LDW)
- G. D'Annunzio v. Ayken Inc. d/b/a Ayhan's Fish Kebab Restaurant, 11-cv-3303 (WFK)

26. Mr. Valli has appeared as a guest speaker on News Channel 12 and as a legal commentator on Court TV. Mr. Valli has also lectured on civil rights and discrimination at various organizational group meetings on Long Island and the Queens County.

been billed at rates exceeding \$450 per hour; accordingly, \$450 per hour is more than reasonable for his time expended in the prosecution of these claims.

James A. Vagnini

28. For hours that Partner James A. Vagnini (“Mr. Vagnini”) worked on this matter, this office has billed at a rate of \$425.00 per hour. Such rate is reasonable for a number of reasons. First, the firm normally bills at \$450.00-\$550.00 per hour for his services depending on the year and nature of the retainer. Second, as delineated below, his background and experience allows this firm to reasonably command these rates for his legal services.

29. Throughout his career, Mr. Vagnini's focus was and remains the advocacy and litigation of the civil and human rights relating to fair and equal treatment of employees in the private and public sectors.

30. Mr. Vagnini first began his career as an associate with Leeds Morelli & Brown, P.C. the predecessor firm to Leeds Brown, P.C., representing clients in individual litigation where he practiced the traditional aspects of employment litigation.

31. However, soon after his start, he dedicated his practice to group and mass litigation, including class and collective action work. As a result of this concentration, Mr. Vagnini also dedicated countless hours to the development and practice of Alternative Dispute Resolution. Through this practice alone, Mr. Vagnini has represented thousands of clients working in corporations nationwide who have suffered various forms of discrimination, harassment, wrongful discharge and labor violations.

32. Specifically, Mr. Vagnini has successfully represented over 2,000 workers in numerous private and government ADR programs across the country wherein he recovered over \$25 million in negotiated settlements for his clients. Mr. Vagnini has been specifically sought out by aggrieved employees, nationwide, for his expertise in handling large multi-plaintiff litigation.

Employment Opportunity Commission in Dallas, Texas. Mr. Vagnini and his firm recovered nearly \$2 Million Dollars in a Consent Decree for 15 litigants in the matter of EEOC and Eric Mitchel, et al. v. Allied Aviation Services.

34. Mr. Vagnini also represented hundreds of employees in a collective action under the ADEA which resulted in a \$12 million dollar settlement in the Eastern District of New York and a race discrimination class action in the Southern District that also resulted in a \$12 million dollar settlement and injunctive relief.

35. Mr. Vagnini's cases and practice have been the focus of several panels, discussions, textbooks and lectures, as well as national news publications and specials. He is a regular guest lecturer at St. John's University Law School where he highlights the litigation aspects of representing workers in America. Specifically he has lectured on the following subjects:

- A. People of Color, Women and the Public Corporation: Conference on Racial and Gender Equity in the Business Setting Symposium (Panelist)
- B. Race/Gender & Corporate Americana and Race & Corporate Governance (Guest Lecturer), St. John's University School of Law.

36. Based on his legal experience and the Firm's reputation, Mr. Vagnini has been billed at rates exceeding \$500 per hour; accordingly, \$425 per hour is more than reasonable for the services he provided in this matter.

S. Tito Sinha

37. For hours that Senior Associate S. Tito Sinha ("Mr. Sinha") worked on this matter, this office has billed at a rate of \$375.00 per hour. Such rate is reasonable for a number of reasons. First, the firm normally bills at \$400.00-\$500.00 per hour for his services depending on

allows this firm to reasonably command these rates for his legal services.

38. Mr. Sinha graduated the City University of New York School of Law in 1997 and has over 12 years of civil rights litigation experience. He has focused on the areas of wage & hour violations, employment discrimination and police misconduct. He has litigated in both New York State Courts as well as the United States District Courts for the Eastern and Southern Districts.

39. Additionally, Mr. Sinha has represented clients in the New York City Commission on Human Rights as well as the Equal Employment Opportunity Commission handling Title VII claims, Age Discrimination in Employment Act claims and various other Federal, State and City laws.

40. Prior to being in private practice, Mr. Sinha had diverse experiences in civil rights work, public policy and grassroots community organizing, including serving as a staff attorney at Asian American Legal Defense and Education Fund. There, he worked on voting rights, anti-Asian violence and public education issues. He was also a founding board member of South Asian Youth Action, a youth center in Elmhurst, Queens.

41. Mr. Sinha is currently managing a number of individual and class actions involving discrimination and overtime claims. Notably, he represents a group of plaintiffs in an ADEA collective action against the United States Postal Service. He also has handled a number of FLSA actions, including a current action against a chain of mobile phone and wireless accessory providers for failing to pay eligible employees overtime pay.

42. Mr. Sinha also represents current plaintiffs in Title VII hostile work environment claims, retaliation claims and First Amendment political speech retaliation claims.

billed at rates exceeding \$450 per hour; accordingly, \$350 per hour is more than reasonable for the services he provided in this matter.

Robert P. Valletti

44. For hours that Associate I, Robert P. Valletti, worked on this matter, this office has billed at a rate of \$300.00 per hour. Such rate is reasonable for a number of reasons. First, the firm normally bills at \$350.00-\$400.00 per hour for my services depending on the year and nature of the retainer. Second, as delineated below, my background and experience allows this firm to reasonably command these rates for his legal services.

45. I am a graduate of the Benjamin N. Cardozo School of Law in 2011 and have over 3 years of litigation experience. I have practiced personal injury litigation, workers compensation, corporate law and, most recently, labor and employment law.

46. I have litigated in the Courts of the states of New York and New Jersey, the United States District Courts for the Eastern and Southern Districts, the New York State Division of Human Rights and the New York State Workers' Compensation Board's Discrimination Unit.

47. During my time with the firm, I have handled cases in the areas of wage & hour violations; race, color, national origin and sex discrimination, police misconduct and Workers' Compensation Discrimination. I have negotiated cases from inception to settlement.

48. Additionally, I have represented clients in the New York City Commission on Human Rights as well as the Equal Employment Opportunity Commission handling Title VII claims, Age Discrimination in Employment Act claims and various other Federal, State and City laws.

49. I am currently managing a number of individual and class actions involving discrimination and overtime claims. Notably, I represent a group of charging parties in a

handling other FLSA actions, sexual harassment cases, disability discrimination claims, and workers' compensation discrimination complaints.

50. Based on my legal experience and the Firm's reputation, a rate of \$300 per hour is more than reasonable for the services I provided in this matter.

THE NUMBER OF ATTORNEY HOURS

51. VKV expended a total of 107.6 billable hours on this case over the last eleven months. This number of hours is reasonable and represents hours that were necessarily expended on this litigation.

52. These hours included, among other things, the following work, labor, and services:

- A. INTAKE
- B. NEGOTIATION OF SETTLEMENT
- C. INVESTIGATION
- D. DRAFTING DOCUMENTS
- E. PLEADINGS
- F. MEETINGS
- G. MOTIONS FOR DEFAULT JUDGMENT, ATTORNEYS' FEES
AND COSTS

53. The number of hours spent on this case averages less than 10 total billable hours per month.

54. Additionally, this case was not overstaffed in any way.

55. All listed costs and expenses were reasonably and necessarily incurred.
56. Plaintiff incurred a cost of \$400 for the filing of the complaint. See Exhibit G.
57. Costs incurred with service and mailing are reasonable in that Plaintiffs' attempted to contact Defendants on more than five occasions from the initial letter mailed to Defendants in April 2014.
58. Plaintiff's incurred \$281.24 cents for this service. See Exhibit A.
59. Additionally, Plaintiffs served the Certificate of Default on each Defendant and incurred a cost of \$275. See Exhibit B.
60. Finally, Plaintiffs served Your Honor's Default Order and the Clerk's Entry of Judgment on Defendants and incurred a cost of \$250. See Exhibit C.
61. The firm also incurred costs of \$56.70 in travel expenses, \$58.48 in research and \$10.10 in postage.
62. Plaintiffs are not requesting the costs of telephone calls and other sundry costs and expenses.
63. To the extent that there are facts in the memorandum that were not included in this declaration, I affirm the truth of all such factual representations.

WHEREFORE, the Plaintiffs respectfully requests that their motion for attorney's fees and costs be granted in its entirety, together with such other and further relief as the Court deems just and proper.

Dated: February 24, 2015
Garden City, NY

/s/ Robert P. Valletti
Robert P. Valletti